

# Asbestos Programs Branch Update

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## Asbestos Regulatory Clarifications

by Elizabeth Grimsley  
Acting Asbestos Enforcement Coordinator

In 1999, the Asbestos Program developed an ad hoc committee with the purpose of providing clarifications to the Texas Health Protection Rules (TAHPR) and National Emission Standards for Hazardous Air Pollutants (NESHAP). The ad hoc committee was composed of representatives from the Notification, Enforcement, Training and Licensing Sections. Using guidance documents from the Environmental Protection Agency (EPA) and TAHPR, the clarifications were first drafted in the Austin Headquarters, and sent to the Regional/Local Asbestos Programs and the Asbestos Advisory Committee for comments. After the comments were received, the clarifications were sent to the Texas Department of Health, Office of General Counsel for legal review.

In February 2001 Asbestos Regulatory Clarifications (ARCs) 001 – 009 were signed by the Branch Chief and Division Director, and released to the public. In November 2001, the Branch Chief and Division Director signed ARCs 010 – 020. ARCs 001-020 were issued to the public in the form of a booklet in January 2002.

Below is a **cursor** summary of ARCs 001 – 020. A more extensive review of the ARCs is recommended, and copies are available on the Asbestos Program web site at [www.tdh.state.tx.us/beh/asbestos/](http://www.tdh.state.tx.us/beh/asbestos/).

### ARC 001 – Application of the TAHPR and NESHAP to the Demolition of a Public Building

- Provides extensive guidance on the definition of “public building”, the handling of demolition debris under NESHAP, when TAHPR and NESHAP apply to demolitions, and specific notification requirements.

### ARC 002 – Preparatory Work and Licensing

- Defines the term “preparation” and describes activities on an abatement project that require a license.

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# Asbestos Regulatory Clarifications - continued

## **ARC 003 – Air Monitoring Technician Working for an O&M Contractor**

- Clarifies that a licensed air-monitoring technician may be hired by an O&M Contractor to conduct personal air sampling.

## **ARC 004 – Eligibility for Licensure under 25 TAC 295.47(e)**

- Clarifies the degree requirements for obtaining an Individual Asbestos Consultant license.

## **ARC 005 - The Utilization of Large Consolidated Waste Containing Systems (LCWCS)**

- Clarifies that in a public building, a LCWCS cannot be used in lieu of the abatement practices and procedures described in 25 TAC 295.60(j)(1)(2). NESHAP facilities can use a LCWCS.

## **ARC 006 – Clarification of the Term “Start Date” for Asbestos Abatement Projects in Public Buildings**

- Clarifies that the term “start date” for a public building is the date actual asbestos disturbance begins.

## **ARC 007 – Amount of Asbestos Regulated by the TAHPR**

- States that asbestos greater than 1% is regulated by TAHPR.

## **ARC 008 – AHERA, ESA’s, EIS’s, & the 3-Sample Requirement**

- Clarifies that when an asbestos inspection is done in preparation of demolition or renovation of a building subject to the TAHPR, the three-sample requirement is a minimum standard.

## **ARC 009 – The Demolition of a Public Building with Asbestos Containing Material in Place**

- Clarifies that NESHAP governs the conditions and circumstances that allows asbestos to be left in a public building to be demolished, and TAHPR governs the manner in which asbestos must be removed.

## **ARC 010 – The Applicability of TAHPR and NESHAP to Painting Asbestos –Containing Material (ACM)**

- States that if painting disturbs ACM, then it is an asbestos related activity. Also provides guidance on when paint may legally be considered an encapsulant.

## **ARC 011 – Clarification of the Term “Completion Date” for Demolition and Renovation Projects**

- Provides guidance on determining the completion dates of abatement, renovation and demolition projects.

## **ARC 012 - Clarification of the Term “Airlock”**

- Defines “airlock” in reference to decontamination systems.

## **ARC 013 – The Impact of Sovereign Immunity and the Relationship of State to Federal Regulations**

- Clarifies what sovereign immunity is and the ability of TDH to enforce NESHAP on federal facilities.

## **ARC 014 – Analysis of Joint Compound for Asbestos Content**

- Clarifies when TAHPR, OSHA and NESHAP permit the composite sampling of joint compound.

## **ARC 015 – The Role of the General Contractor in a Renovation or Demolition Project**

Continued on back page.

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# Asbestiform Varieties of Other Minerals

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**by Bert Hickman,  
Toxicologist  
Toxic Substances  
Control Division**

In the last issue of the Newsletter, this column discussed the non-fibrous forms of the minerals currently regulated as asbestos. Another group of minerals of interest to the public-health community includes the minerals that have fibrous forms with properties similar to asbestos, but that currently are not classified as “asbestos.”

## Asbestiform varieties of other minerals

The term “asbestos” includes mineralogical and economic connotations. It has been used to refer to a specific set of asbestiform minerals that are, or were in the past, regarded as being commercially significant. “Asbestiform” is a mineralogical term used to refer to minerals that are found in a particular fibrous form. Thus, while all asbestos is asbestiform, not all asbestiform minerals are asbestos.

Many other fibrous minerals have some of the same characteristics as the six minerals regulated as asbestos. One of these, erionite, is classified as a known human carcinogen by the International Agency for Research on Cancer and the Annual Report on Carcinogens from the U.S. National Toxicology Program. Erionite occurs naturally in the soil and rock in the Cappadocia region of central Turkey. Residents in this region, and especially those living in

houses built of erionite-containing stone, can have lifetime exposure to erionite. Studies of residents of three villages in the area have identified a much higher than expected incidence of mesothelioma compared to villagers in regions without erionite. Based on these studies, erionite appears to be even more effective than asbestos in causing pleural mesothelioma.

Erionite is a zeolite, a mineral that selectively adsorbs molecules from air or water. Although erionite was used commercially in the United States in the past, synthetic zeolites have replaced erionite today. Potential occupational exposure to erionite might occur, however, during the mining or processing of other natural zeolites. Erionite also occurs naturally in parts of the western U.S., so that residents might be exposed to fibrous erionite in ambient air (for example, through road dust).

Amphibole fibers have also been found in vermiculite mined and processed in Libby, Montana. Occupational exposure to mineral fibers that contaminate vermiculite from Libby has been linked to high rates of asbestos-related diseases among exposed workers, and potentially among family members of workers and other town residents. The fibers that contaminate vermiculite from Libby include tremolite and actinolite, which are currently regulated as asbestos. There is some evidence, however, that the majority of the fibrous mineral content of the Libby vermiculite was chemically similar fibers that are not currently regulated

as asbestos. These fibers include richterite, winchite, ferro-edenite, and magnesio-arfvedsonite.

The potential links between the “non-asbestos” amphiboles found at Libby and the health problems observed there have led to calls for more research, both epidemiological and laboratory-based, to better determine the chemical and/or physical characteristics that might affect the toxicity of such fibers. In addition, some people feel that a re-examination of the mineralogical definitions currently used to regulate asbestos might be warranted. Such a re-examination probably depends on the outcome of the Libby studies, but it is not inconceivable that the definition of “asbestos” might be broadened at some point in the future.

**The Newsletter  
is also available  
on the web at:  
[www.tdh.state.tx.us/  
beh/asbestos](http://www.tdh.state.tx.us/beh/asbestos)**

# Asbestos Enforcement

The following entities have been issued an Agreed Order by the Texas Department of Health and have agreed to pay a penalty and/or conduct supplementary asbestos related activities to resolve these enforcement actions:

## Altamesa Church of Christ

*Date:* January 23, 2001

*Location:* Altamesa Church of Christ, 4600 Altamesa Boulevard, Fort Worth

*Citation:* Failure to properly remove asbestos containing materials; Failure to provide notification of asbestos related activities. [25 TAC 295.34(a); 25 TAC 295.61(a)]

## Asset Plus Corporation

*Date:* August 10, 2000

*Location:* Office Suites, 7007 Gulf Freeway, Suite 114, Houston

*Citation:* Failure to properly remove asbestos-containing building materials; Failure to provide notification of asbestos related activities. [25 TAC 295.34(a); 25 TAC 295.61(a)]

## Baylor University

*Date:* N/A

*Location:* Martin Hall, 1101 South 5th Street, Waco

*Citation:* Failure to provide a timely notification of asbestos related activities. [25 TAC 295.61(c) and 40 CFR Part 61, Subpart M, 61.145(b)]

## Caraballo, Luis

*Date:* N/A

*Location:* Scientific Investigation and Instruction Institute –Initial Asbestos Abatement Worker Course

*Citation:* Failure to complete the course. [25 TAC 295.64(d)]

## Caraballo, Luis F.

*Date:* N/A

*Location:* Scientific Investigations and Instruction Institute (SI3)

*Citation:* Failure to complete the course. [25 TAC 295.64(d)]

## Certified LVI Environmental Services, Incorporated

*Date:* N/A

*Location:* Capitol Central Office-Mechanical Renovations, 1121 Capitol, Houston

*Citation:* Failure to provide a timely notification of asbestos related activities. [40 CFR Part 61, Subpart M, 61.145(b)]

## Cherokee Pipe & Service

*Date:* October 19, 2000

*Location:* Cherokee Pipe & Service, 1010 Sodville Road, Uvalde

*Citation:* Failure to thoroughly wet regulated asbestos-containing material (RACM); Failure to properly contain regulated asbestos-containing material (RACM). [40 CFR Part 61, Subpart M, 61.145(c)(3), (c)(6)(i); 40 CFR Part 61, Subpart M, 61.150(a)(1)(iii)]

## Conann Homes

*Date:* August 4, 2000

*Location:* Old Restaurant, 11606 North IH 35, Austin

*Citation:* Failure to conduct a thorough asbestos inspection. [25 TAC 295.34(c) and 40 CFR Part 61, Subpart M, 61.145(a)]

## D.W.W. Abatement, Incorporated

*Date:* N/A

*Location:* Aspermont Housing Authority, 205 7th Street, Aspermont

*Citation:* Failure to provide a timely notification of asbestos related activities. [25 TAC 295.61(c) and 40 CFR Part 61, Subpart M, 61.145(b)]

## El Paso, City of

*Date:* N/A

*Location:* South El Paso Senior Citizens Center, 600 Ochoa, El Paso

*Citation:* Failure to pay the required notification fee. [25 TAC 295.61(j)(4)]

## Envirocon Services, Incorporated

*Date:* N/A

*Location:* Huntsman Polymers Corporation Training Facility, Odessa

*Citation:* Failure of training provider to submit a group photo. [25 TAC 295.65(f)(3)]

## Garcia, Jose E.

*Date:* May 10, 2000

*Location:* Law Office of Jose E. Garcia, 4301 North McColl Road, McAllen

*Citation:* Failure to provide notification of asbestos related activities. [25 TAC 295.61(a) and 40 CFR Part 61, Subpart M, 61.145(b)(1)]

## Garden Oaks Church of Christ

*Date:* October 23 and 24, 2000

*Location:* Garden Oaks Church of Christ, Houston

*Citation:* Failure to provide notification of demolition. [25 TAC 295.61(a) and 40 CFR Part 61, Subpart M, 61.145(b)(1)]

## Garden Regency Falls, Limited Partnership

*Date:* November 22 and 29, 2000

*Location:* Woodhollow Apartments, 10362 Sahara Drive, San Antonio

*Citation:* Failure to properly complete notification form. [25 TAC 295.61(a)]

## Gutierrez, Jose H. and Veronica

*Date:* May 4, 2001

*Location:* Old Theater, F.M. 88 and B.H. 107, Elsa

*Citation:* Failure to conduct an asbestos inspection; Failure to provide notification of asbestos related activities. [25 TAC 295.34(c) and 40 CFR Part 61, Subpart M, 61.145(a); 25 TAC 295.61(a) and 40 CFR Part 61, Subpart M, 61.145(b)(1)]



# Asbestos Enforcement (Continued)

## Haggis Frammis Enterprises

*Date:* N/A

*Location:* Apartment Complex, 3211 Center, Houston

*Citation:* Failure to pay the required notification fee. [25 TAC 295.61(j)(4)]

## Harris County Toll Road Authority

*Date:* N/A

*Location:* Residential Home, 1909 Maffitt Street, Houston

*Citation:* Failure to provide a timely notification of asbestos related activities. [40 CFR Part 61, Subpart M, 61.145(b)]

## J&J Insulation and Acoustics, Incorporated

*Date:* February 8, 2001

*Location:* Port City Plaza, 811 North Carancahua, Corpus Christi

*Citation:* Failure to use a decontamination system; Failure to properly contain regulated asbestos-containing material (RACM); Failure to monitor differential pressure. [25 TAC 295.60(e); 25 TAC 295.60(j)(3) and 40 CFR Part 61, Subpart M, 61.145(a)(1)(iii); 25 TAC 295.60(i)]

## La Michoacana Taqueria and Meat Market

*Date:* March 22, 2001

*Location:* La Michoacana Taqueria and Meat Market, 6908 Cameron Road, Austin

*Citation:* Failure to conduct a thorough asbestos inspection. [25 TAC 295.34(c) and 40 CFR Part 61, Subpart M, 61.145(a)]

## La Mina Liquors

*Date:* March 29, 2001

*Location:* La Mina Liquors, 608 Farragut Avenue, Laredo

*Citation:* Failure to provide notification of demolition. [25 TAC 295.61(a) and 40 CFR Part 61, Subpart M, 61.145(b)(1)]

## Metzger, Albert F., Revocable Trust

*Date:* June 22, 2000

*Location:* Old Stereo World, 1801 Rancier, Killeen

*Citation:* Failure to conduct a thorough asbestos inspection. [25 TAC 295.34(c) and 40 CFR Part 61, Subpart M, 61.145(a)]

## Modecor Corporation

*Date:* August 1, 2001

*Location:* Fort Worth East Banking Center, Fort Worth

*Citation:* Failure to start project on notification start date. [25 TAC 295.61(f) and 40 CFR Part 61, Subpart M, 61.145(b)(3)(iv)]

## Montgomery County

*Date:* N/A

*Location:* House 404 Buyout Montgomery County, 18342 East River Road and 268 Caney Drive, Conroe

*Citation:* Failure to pay the required notification fee. [25 TAC 295.61(j)(4)]

## New, John

*Date:* March 14, 2000

*Location:* Texaco Car Wash, 7104 North Navarro, Victoria

*Citation:* Failure to provide notification of demolition; Failure to conduct an asbestos inspection. [25 TAC 295.61(a) and 40 CFR Part 61, Subpart M, 61.145(b); 25 TAC 295.34(c) and 40 CFR Part 61, Subpart M, 61.145(a)]

## One Thirty Two Main Trust

*Date:* August 10, 2000

*Location:* Former Winn's Store, 123 East Main, Fredericksburg

*Citation:* Failure to conduct a thorough asbestos inspection. [25 TAC 295.34(c) and 40 CFR Part 61, Subpart M, 61.145(a)]

## Patel, Ashok

*Date:* August 8, 2000

*Location:* Imperial Motor Inn, McAllen

*Citation:* Failure to provide notification of asbestos related activities. [25 TAC 295.61(a) and 40 CFR Part 61, Subpart M, 61.145(b)(1)]

## Peterson Properties

*Date:* November 27, 2000

*Location:* Naval Recruiting/OSA Building, 1831 Lee Trevino, El Paso

*Citation:* Failure to provide notification of demolition. [25 TAC 295.61(a) and 40 CFR Part 61, Subpart M, 61.145(b)(1)]

## Phillip Services/Louisiana, Inc.

*Date:* N/A

*Location:* Drydock Pontoon Deck, 2500 MLK, Port Arthur

*Citation:* Failure to provide a timely notification of asbestos related activity. [40 CFR Part 61, Subpart M, 61.145(b)]

## Professional Service Industries, Inc.

*Date:* April 19 and 26, 2000

*Location:* Texas Gulf Bank, Lake Jackson

*Citation:* Failure to provide professional services to building owner. [25 TAC 295.47(h)(2)(3)(4)]

## RDO Equipment

*Date:* August 16, 1999

*Location:* RDO Equipment, Hewitt

*Citation:* Failure to conduct an asbestos inspection. [25 TAC 295.34(c) and 40 CFR Part 61, Subpart M, 61.145(a)]

## Restivo, John

*Date:* February 29, 2000

*Location:* Commercial Property, 4721 Bosque Blvd., Waco

*Citation:* Failure to conduct an asbestos inspection. [25 TAC 295.34(c) and 40 CFR Part 61, Subpart M, 61.145(a)]

# Asbestos Enforcement (Continued)

## Richardson Independent School District

*Date:* N/A

*Location:* Stults Road Elementary, Richardson West Junior High, Richardson

*Citation:* Failure to pay the required notification fee. [25 TAC 295.61(j)(4)]

## Santa Anna National Bank

*Date:* September 22, 2000

*Location:* Old Phillips Drug Store, 600 Highway 67, Santa Anna

*Citation:* Failure to conduct an asbestos inspection. [25 TAC 295.34(c) and 40 CFR Part 61, Subpart M, 61.145(a)]

## Shelby, Bruce

*Date:* February 1, 2001

*Location:* Borrowed Money, 16602 El Camino Real, Houston

*Citation:* Failure to conduct an asbestos inspection. [25 TAC 295.34(c) and 40 CFR Part 61, Subpart M, 61.145(a).]

## Sonic Drive-In

*Date:* June 8, 2000

*Location:* Former Sonic Drive-In, 1007 23rd Street, Canyon

*Citation:* Failure to provide notification of demolition. [25 TAC 295.61(a) and 40 CFR Part 61, Subpart M, 61.145(b)(1)]

## South West Texas Environmental Contractors, Incorporated

*Date:* June 12, 2000

*Location:* Japhet Elementary School, San Antonio

*Citation:* Failure to provide an amended notification – later start date. [25 TAC 295.61(d)(1)(2) and 40 CFR Part 61, Subpart M, 61.145(b)(3)(iv)(A)(1)(2)]

## Spire Realty Group, Incorporated

*Date:* N/A

*Location:* Bayou Lofts, 913 Franklin Street, Houston

*Citation:* Failure to pay the required notification fee. [25 TAC 295.61(j)(4)]

## Strasburger Enterprises, Inc

*Date:* May 2, 2000

*Location:* Old Service Station, 1313 Woodbine Road, Temple

*Citation:* Failure to conduct a thorough asbestos inspection; Failure to provide notification of demolition. [25 TAC 295.34(c) and 40 CFR Part 61, Subpart M, 61.145(a); TAC 295.61(a) and 40 CFR Part 61, Subpart M, 61.145(b)(1)]

## Transtar Air Conditioning Supply

*Date:* December 1, 2000, February 17 and 19, 2001

*Location:* Retail Center, 8495 Gulf Freeway, Houston

*Citation:* Failure to conduct an asbestos inspection. [25 TAC 295.34(c) and 40 CFR Part 61, Subpart M, 61.145(a)]

## Trico Industries, Incorporated

*Date:* N/A

*Location:* Trico Industries Plant, San Marcos

*Citation:* Failure to pay the required notification fee. [25 TAC 295.61(j)(4)]

## Unilev Management Corporation

*Date:* September 21, 2000

*Location:* Bear Creek Square, 4904 Highway 6, Houston

*Citation:* Failure to conduct a thorough asbestos inspection. [25 TAC 295.34(c) and 40 CFR Part 61, Subpart M, 61.145(a)]

## US Liquids of Central Texas, Limited-Liability Corporation dba Alamo Environmental

*Date:* June 14, 2000

*Location:* JC Penny Store No. 1947, Del Rio

*Citation:* Failure to provide an amended notification. [25 TAC 295.61(d)(1) and 40 CFR Part 61, Subpart M, 61.145(b)(3)(iv)(A)(1) and (2)]

## Vessel Repair, Incorporated

*Date:* April 6, 2000

*Location:* Warehouse/Office 5848 Proctor Street, Port Arthur

*Citation:* Failure to conduct a thorough asbestos inspection. [25 TAC 295.34(c) and 40 CFR Part 61, Subpart M, 61.145(a)]

## Waco Entertainment, Incorporated

*Date:* September 4, 1998

*Location:* Cutters 2000 Night Club (formerly Club DV8), 6154 Woodway, Waco

*Citation:* Failure to conduct a mandatory asbestos survey. [25 TAC 295.34(c) and 40 CFR Part 61, Subpart M, 61.145(a)]

## Westdale Properties America, Incorporated

*Date:* September 20, 2000

*Location:* Ridgewood Shopping Center, 2000 North Valley Mills Drive, Waco

*Citation:* Failure to conduct a thorough asbestos inspection. [25 TAC 295.34(c) and 40 CFR Part 61, Subpart M, 61.145(a)]

## Will Invest, Inc.

*Date:* October 16, 2000

*Location:* Commercial Property/Public Bldg., Highway 190 East 415, Copperas Cove

*Citation:* Failure to conduct a thorough asbestos inspection. [25 TAC 295.34(c) and 40 CFR Part 61, Subpart M, 61.145(a)]

## Wilshire Oil Company

*Date:* January 24, 2000

*Location:* Wellington Estates, 6623 Callaghan Road- Apartment 1001, San Antonio

*Citation:* Failure to conduct an asbestos inspection. [25 TAC 295.34(c) and 40 CFR Part 61, Subpart M, 61.145(a)]

# Asbestos Enforcement (Continued)

## ZKM, Incorporated

*Date:* April 3 and 5, 2001

*Location:* S & S Food Mart, 9405 North IH 35, Austin

*Citation:* Failure to conduct a thorough asbestos inspection. [25 TAC 295.34(c) and 40 CFR Part 61, Subpart M, 61.145(a)]

## ZP No. 85, Limited

*Date:* February 21, 2000

*Location:* Old Furniture Store, 1907 South Texas Avenue, College Station

*Citation:* Failure to conduct an asbestos inspection; Failure to provide notification of asbestos related activities [25 TAC 295.34(c) and 40 CFR Part 61, Subpart M, 61.145(a); 25 TAC 295.61(a) and 40 CFR Part 61, Subpart M, 61.145 (b)(1)]

**The following entities have been issued a Default Order by the Texas Department of Health:**

## Arellano, Francisco J.

*Date:* N/A

*Location:* Scientific Investigation and Instruction Institute – Initial Asbestos Abatement Worker Course

*Citation:* Failure to complete the course. [25 TAC 295.64(d)]

## Iron Workers Local Union 66

*Date:* N/A

*Location:* Office, 4318 Clark Avenue, San Antonio

*Citation:* Failure to provide a timely notification of asbestos related activities. [25 TAC 295.61(c) and 40 CFR Part 61, Subpart M, 61.145(b)]

## J. R. Ramon and Sons

*Date:* May 23, 2000

*Location:* Tuloso Midway Middle School/Classroom Bldg., Corpus Christi

*Citation:* Failure to thoroughly wet regulated asbestos-containing material (RACM); Failure to properly contain regulated asbestos-containing material (RACM). [25 TAC 295.60(j)(1) and 40 CFR Part 61, Subpart M, 61.145(c)(3), (c)(6)(i); and 25 TAC 295.60(j)(3) and 40 CFR Part 61, Subpart M, 61.150(a)(1)(iii)]

## Mayhew Environmental Training Associates, Inc.

*Date:* N/A

*Location:* Border Environmental Services Training Facility, El Paso

*Citation:* Failure to submit a group photo. [25 TAC 295.65(f)(3)]

## Midwest Steel Company, Inc.

*Date:* N/A

*Location:* Inland Paperboard and Packaging, Inc., Orange

*Citation:* Failure to provide a timely notification of asbestos related activities. [40 CFR Part 61, Subpart M, 61.145(b)]

## Rothe, Louis A. and Karen S.

*Date:* May 3, 2000

*Location:* Vacant Service Station/Garage, Hwy 90 & Cr 5211, D'Hanis

*Citation:* Failure to provide notification of demolition; Failure to conduct an asbestos inspection. [25 TAC 295.61(a) and 40 CFR Part 61, Subpart M, 61.145(b)(1); 25 TAC 295.34(c) and 40 CFR Part 61, Subpart M, 61.145(a)]

## Silva, Rolando Rico

*Date:* N/A

*Location:* Scientific Investigation and Instruction Institute – Initial Asbestos Abatement Worker Course

*Citation:* Failure to complete the course. [25 TAC 295.64(d)]

## US Liquids of Central Texas, Limited-Liability Corporation DBA Alamo Environmental

*Date:* N/A

*Location:* Harwood Junior High School, 3000 Martin Drive, Bedford

*Citation:* Failure to provide a timely notification of asbestos related activities. [25 TAC 295.61(c) and 40 CFR Part 61, Subpart M, 61.145(b)]

## **Don't Forget!!!**

**Senate Bill 509 goes into effect January 1, 2002.**

**City Building Officials in the State of Texas will be verifying that an asbestos survey has been done in accordance with the Texas Asbestos Health Protection Rules (TAHPR) and the National Emission Standards for Hazardous Air Pollutants (NESHAP) before issuing a permit for renovation or demolition.**

**For more information on asbestos surveys or Senate Bill 509 call 512-834-6610 or 1-800-572-5548 (toll free in Texas). Information is available on line at [www.tdh.state.tx.us/](http://www.tdh.state.tx.us/)**

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# Managing Asbestos in Schools



**by Roxanna B. Guerrero,  
AHERA Enforcement Specialist**

The Asbestos Hazard Emergency Response Act (AHERA) went into effect in 1986, and the Environmental Protection Agency (EPA) developed regulations requiring each local education agency (LEA) to develop plans for managing asbestos in its school buildings. All nonprofit elementary and secondary schools, public and private, must adhere to these regulations. In 1985, Texas Department of Health (TDH), Toxic Substances Control Division entered into a cooperative agreement with the EPA to inspect schools (grades K-12) to ensure that they were in compliance with AHERA. In February 2001, the EPA granted a waiver to TDH, thereby transferring the authority for enforcement of AHERA to TDH.

According to the EPA's "How to Manage Asbestos in School Buildings: The AHERA Designated Person's Self Study Guide", January 1996, removal of asbestos building material is not the best course of action because improper removal may create a dangerous environment for building occupants. Rather, each LEA must identify all asbestos and create an effective operations and maintenance program in order to sustain a safe environment and promote good, long-term health of children.

In creating this management plan, an inspection must first be performed by accredited inspectors, licensed by TDH, for each school building

under the LEA's jurisdiction. These inspectors identify all asbestos-containing materials and have samples analyzed in accordance with AHERA regulations. Each LEA should have a management plan developed by an accredited management planner, also licensed by TDH, and a designated person must then implement appropriate response actions and develop an operations and maintenance program. Periodic surveillances must be performed every six months by an individual that is familiar with the school to verify changes in the condition of the asbestos. Reinspections must also be performed at least once every three years by accredited inspectors, licensed by TDH, to verify changes to the condition of the asbestos. Everyone who may come in contact with the identified material must be adequately trained, and all building occupants should be notified that management plans are in place and are available for review. This notification should be issued annually to all workers, building occupants, or their legal guardians. All documents created in response to the management plan must be added to the management plan as they are created.

TDH inspectors meet with school officials and/or their AHERA designated person and inspect certain school facilities and their management plans. If any discrepancies exist, the TDH inspectors will forward their reports to the TDH central

office located in Austin, Texas. If further action is warranted, then the Asbestos Enforcement Section will issue either a Warning Letter or a Notice of Noncompliance (NON).

The most severe violations cited against schools include, but are not limited to, the following: failing to have a management plan; failing to use an accredited management planner; failing to reinspect every three years; and failing to include new school buildings in an existing management plan. Although less severe violations are common, the most severe violations warrant a NON. If an LEA receives a NON, it must ensure that the schools come into compliance in a timely manner; otherwise, TDH will issue a notice of violation with a substantial monetary penalty.

Once the management plan is in place and compliance is reached, parents, teachers, staff, and parental organizations may review the management plan feeling confident that their LEA is protecting its building occupants in the best way possible.

If you would like more information on asbestos and AHERA, please visit our website at <http://www.tdh.state.tx.us/beh/TSCD> and link to either the Asbestos Programs Branch or the Industrial Hygiene Branch. If you have any questions, please contact either Gordon Leeks or Ken Ofunrein at 512-834-6603 or 800-452-2791 (toll free in Texas).



# Top Ten Deficiencies of LEAs



**by Gordon Leeks,  
TSCA Inspector**

**A review of the AHERA inspection reports indicate that the following are the top ten deficiencies of local education agencies:**

1. Failure to perform 3-year reinspections on schools that contain asbestos containing materials. **§763.86(b)**
2. Failure of the LEA to maintain in their management plan and submit to TDH an exclusion statement signed by an architect or project engineer for any new school built after October 12, 1988. **§763.99(a)(7)**
3. Failure to have a management plan or not including portable buildings in the current management plan. **§763.80(a)**
4. Failure to maintain documents related to a response action, such as TEM clearance results, worker accreditation certificates and project designer accreditation. **§763.94(b)**
5. Failure to notify at least annually of the availability of management plans and exclusion statements and to document this effort in the management plan. **§763.93(g)(4)**
6. Failure to have complete updated copies of the management plan available at every school campus. **§763.93(g)(3)**
7. Failure to conduct and document the LEA's periodic surveillance every six months. **§763.92(b)**
8. Failure to attach a warning label immediately adjacent to friable or nonfriable ACM and suspected ACM located in routine maintenance areas (such as boiler rooms) at each school building. **§763.95(a)**
9. Failure to give the two-hour asbestos awareness training to maintenance and custodial staff within 60 days of employment. **§763.92(a)(1)**
10. Failure to update the management plan(s) to include the name of current Designated Person and a signed statement that the LEA responsibilities will be met. **§763.84(g)(1)&(2)**

**Note: This list is not intended to define all regulations found in 40 CFR Part 763 Subpart E.**

# Training Section



**by Jorge Montemayor,  
Coordinator Asbestos  
Training Section**

The Asbestos Training Section held its 8th annual Training Provider Seminar on November 30, 2001. Topics of discussion included Senate Bill 509 and Rule Clarifications. The Asbestos Program extends its gratitude to all those who attended the seminar and made this year's seminar a success.

Reminder: December 13, 2001 was the last day that TDH will approve courses which exceed 8 hours of instruction. This was also the last day that TDH will approve courses where notification was made within 72 hours of conducting a class.

**For more information on becoming a licensed training provider or to get a list of licensed training providers in your area contact Jorge Montemayor at 512-834-6610 or 1-800-572-5548 (toll free in Texas). This information is also available online at [www.tdh.state.tx.us/asbestos](http://www.tdh.state.tx.us/asbestos)**

# Asbestos Regulatory Clarifications - continued

- Outlines the responsibilities of the building owner and what responsibilities can be delegated to the general contractor.

## **ARC 016 – The Meaning of “During the Project” in Public Buildings**

- Clarifies the term “during the project” in relation to use of personal protection equipment and air monitoring.

## **ARC 017 – Licensing Renewal Period**

- Provides clarification on the expiration date of licenses that are being renewed.

## **ARC 018 – Asbestos Survey Conducted Prior to December 1998**

- Provides guidance on the compliance of asbestos surveys completed prior to December 1998.

## **ARC 019 – Application of Point Counting Bulk Samples in Regards to TAHPR**

- Addresses the use of point counting, gravimetric analysis, and transmission electron microscopy analysis for asbestos bulk samples.

## **ARC 020 – Work Practices that Deviate from the Provisions – Alternative Control Method Format and Process Approval**

- Provides specific guidance on requesting a variance from the provision of 25 TAC 295.60.

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